EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Brenda Holmes on 3/27/2008.

The application has been amended as follows:

Specification:

Replace paragraphs [51] and [58] as follow:

[0051] According to the present invention, the FCP architecture can be implemented by a computer-readable storage medium and computer-readable transmission medium executing computer instructions. Embodiments of computer-readable storage medium and computer-readable transmission medium include, but are not limited to, an electronic, optical, magnetic, or other storage or transmission device capable of providing computer-readable instructions to a processor. Other examples of suitable computer-readable storage medium include, but are not limited to, a floppy disk, CD-ROM, DVD, magnetic disk, memory chip, ROM, RAM, an ASIC, a configured processor, all optical media, all magnetic tape or other magnetic media, or any other medium from which a processor can read instructions. Also, various other forms of computer-readable transmission media may transmit or carry instructions to a computer,

including a router, switch, private or public network, or other transmission device or channel, both wired and wireless. The instructions and software modules described herein may comprise code from any- computer-programming language, including, for example, C, C++, C#.

[0058] Another embodiment of associations is to use the scan points, discussed in U.S. Patent Application No. 10/735,589, U.S. provisional Application No. 60/433,285 entitled "TOPOLOGY-BASED ROUTE CONTROL OVER DATA NETWORKS USING CONVERGENCE" and the U.S. utility patent application that claims priority to such provisional application, as both measurement proxies and associations. In the scan point embodiment, many external elements in the wide area network have identified certain infrastructure points that represent the performance to specific areas (prefix and autonomous systems) of the network. This data is communicated as a scan point feed to the controller and is used predominantly for measurement proxies. However as shown in **FIG. 5-10**, this scan point feed can be used for associations as well. In a method similar to the BGP associations, when a new L-DNS is seen, a longest match in the scan point table determines the appropriate association to be stored in the association table. The decision for such an embodiment is shown in **FIG. 5-11**.

Claims

Replace claims 27-30 as follow:

27. A computer-readable storage medium, having computer-executable instructions stored therein for carrying out the following steps:

receiving an access request for an application wherein the application is available at a plurality of distinct network locations, each of the network locations served by at least one network service provider and a first one of the network locations served by a plurality of service providers;

determining a virtual IP address for the application that is associated with one of the network service providers based upon load data for each of the network locations;

if the virtual IP address corresponds to the first network location, then

analyzing performance data for a path through each of the network service providers serving the first network location;

based on the performance data, selecting a path through a selected one of the network service providers serving the first network location; and

providing an IP address that is associated with the selected service provider in response to the access request; and

if the virtual IP address corresponds to another one of the network locations, then providing the virtual IP address in response to the access request.

28. The computer-readable storage medium of Claim 27, wherein analyzing performance data for a path through each of the network service providers serving the first network location comprises:

analyzing performance data for paths associated with a local name server that sent the access request.

29. The computer-readable storage medium of Claim 27, wherein analyzing performance data for a path through each of the network service providers serving the at least one network location comprises:

analyzing performance data for paths associated with an address prefix associated with a client that originated the access request.

30. The computer-readable storage medium of Claim 27, wherein the performance data includes load data.

SUMMARY OF THE SUBSTANCE OF THE INTERVIEW

The Examiner initiated an interview with Applicants' representative, Brenda Homes on 3/27/2008. Applicants were advised that Applicants are required to separately set forth what are included in the computer-readable storage medium and computer-readable transmission media in the specification and further required to direct the rejected (101) claims to computer-readable storage medium in order to obviate the 101 rejection. Applicants state that they have no intention to claim computer-readable transmission medium and agree to the amendment as set forth in the Examiner's amendment above.

/DAVID Y. ENG/

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